

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re: Chapter 11
:
REPUBLIC METALS REFINING Case No. 18-13359 (SHL)
CORPORATION, *et al.*,¹ :
:(Jointly Administered)
Debtor, :
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**STIPULATION AND ORDER GRANTING STANDING
TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS**

This Stipulation and Order (the “Stipulation”) is entered into by and among the above-captioned debtors (the “Debtors”) and the Official Committee of Unsecured Creditors (the “Committee”).

WHEREAS, on November 2, 2018, the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”), and on November 21, 2018, certain additional debtors filed voluntary petitions for relief under the Bankruptcy Code;

WHEREAS, the Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to 11 U.S.C. §§ 1107(a) and 1109 and no trustee or examiner has been appointed in these cases;

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: Republic Metals Refining Corporation, 15 West 47th Street, Suites 206 and 209, New York, NY 10036 (3194), Republic Metals Corporation, 12900 NW 38th Avenue, Miami, FL 33054 (4378), Republic Carbon Company, LLC, 5295 Northwest 163rd Street, Miami Gardens, FL 33014 (5833), Republic High Tech Metals, LLC, 13001 NW 38 Avenue, Miami, FL 33054 (6102), RMC Diamonds, LLC, 12900 NW 38th Avenue, Miami, FL 33054 (1507), RMC2, LLC, 12900 NW 38th Avenue, Miami, FL 33054 (4696), J & L Republic LLC, 12900 NW 38th Avenue, Miami, FL 33054 (7604); R & R Metals, LLC, 12900 NW 38th Avenue, Miami, FL 33054 (7848), Republic Metals Trading (Shanghai) Co., Ltd., 276 Ningbo Road, Huangpu District, Shanghai, P.R. 200001 China (1639), and Republic Trans Mexico Metals, S.R.L., Francisco I. Madero No. 55 Piso 5, Local 409, Centro Joyero Edificio Central, Delegación Cuauhtémoc, Mexico DF 6000 (2942).

WHEREAS, on November 19, 2018, the Office of the United States Trustee for Region 2 appointed the Committee;

WHEREAS, on December 21, 2018, this Court entered an order [Dkt. No. 353] granting the Committee's *Motion for an Order Pursuant to Bankruptcy Rule 2004 Authorizing Discovery of the Debtors and Third Parties* [Dkt. No. 306];

WHEREAS the Committee has requested that the Debtors consent to entry of a stipulation and order granting the Committee standing to investigate, and if the Committee deems appropriate, prosecute, settle, or abandon (i) any and all causes of action and claims arising under chapter 5 of the Bankruptcy Code or equivalent state fraudulent transfer or conveyance laws and (ii) any and all claims or causes of action on behalf of the Debtors' estates against the Debtors' current and former insiders, entities owned/controlled by or related to such insiders, and/or individuals or entities that may have aided, abetted, participated in or otherwise facilitated misconduct by the Debtors' insiders or their related entities (the "Estate Causes of Action");

WHEREAS, the Debtors and Committee agree that it would be in the best interests of the estate and its creditors for the Committee to be granted standing to pursue, prosecute, compromise, and litigate, as appropriate, the Estate Causes of Action.

NOW THEREFORE, it is hereby stipulated and agreed, subject to Court approval, by the Debtors and the Committee as follows:

1. Standing is hereby conferred to the Committee to pursue, compromise, and prosecute the Estate Causes of Action.
2. The Committee is hereby appointed as a representative of the Debtors' estates for the limited purpose of pursuing, compromising, and prosecuting the Estate Causes of Action.

3. This Stipulation is intended by the parties to create a common interest agreement. To that end, the Debtors and the Committee agree to reasonably cooperate with one another in making information and documents available to one another as required for the investigation, prosecution, or compromise of the Estate Causes of Action. To the extent any privileged materials are shared or otherwise disclosed by the Debtors or the Committee to one another in connection with the investigation, prosecution or compromise of the Estate Causes of Action, such sharing or disclosure shall not constitute any waiver of any attorney-client or other privilege.

4. The undersigned each acknowledge that they are duly authorized to enter into this Stipulation on behalf of the respective parties, subject solely to Bankruptcy Court approval hereof.

5. This Stipulation and all of the provisions hereof shall be binding upon and shall inure to the benefit of the parties hereto and each of their respective executors, heirs, successors, and assigns, including without limitation, any plan administrator, liquidating trustee, or a chapter 7 trustee appointed to administer the Debtors' estates.

6. This Stipulation constitutes the entire agreement between the parties hereto to the subject matter hereof, and supersedes any prior agreements and understandings, both written and oral, thereof.

7. This Stipulation shall be construed and enforced in accordance with (a) the laws of the state of New York without giving effect to the state of New York's rules governing the conflict of laws, and (b) to the extent applicable, the Bankruptcy Code, as amended.

8. The parties hereto have cooperated in the drafting and preparation of this Stipulation. Therefore, in any construction to be made of this Stipulation, the Stipulation shall not be construed for or against either of the Parties on that basis.

9. This Stipulation may not be modified or terminated except in writing and subject to the approval of the Court.

10. This Stipulation may be executed by in separate counterparts, each of which shall be deemed an original, but all of which, when taken together, shall constitute one and the same instrument. This Stipulation may be executed by exchange of facsimile or electronic signatures (in PDF or comparable format), which shall be deemed original signatures.

11. The Bankruptcy Court shall retain exclusive jurisdiction to hear and determine any matters and disputes arising from or related to this Stipulation.

AKERMAN LLP

COOLEY LLP

By: _____

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*Counsel for the Official
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Possession*

So Ordered this ____ day of 2019

Sean H. Lane
United States Bankruptcy Judge